



[BILLING CODE: 6750-01S]

FEDERAL TRADE COMMISSION

[File No. 141 0088]

Professional Lighting and Sign Management Company of America, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

DATES: Comments must be received on or before January 22, 2015.

ADDRESSES: Interested parties may file a comment at

<https://ftcpublic.commentworks.com/ftc/plasmaconsent> online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Professional Lighting and Sign Management Companies of America, Inc. - Consent Agreement; File No. 1410088" on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/plasmaconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, write "Professional Lighting and Sign Management Companies of America, Inc. - Consent Agreement; File No. 1410088" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission,

Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Barbara Blank, Bureau of Competition, (202-326-2523), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 23, 2014), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 22, 2015. Write “Professional Lighting and Sign Management Companies of America, Inc. - Consent Agreement; File No. 1410088” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card

number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/plasmaconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Professional Lighting and Sign Management Companies of America, Inc. - Consent Agreement; File No. 1410088” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington,

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 22, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Consent Agreement") from the Professional Lighting and Sign Management Companies of America, Inc. ("PLASMA"). The Commission's complaint ("Complaint") alleges that PLASMA, acting as a combination of its members and in agreement with at least some of its members, restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by adopting and maintaining provisions in its Bylaws and Standard Operating Procedures that restrict members from competing in the territory of another member, that restrict price competition, and that restrict members from soliciting the customers of another member upon termination of membership in the association.

Under the terms of the proposed Consent Agreement, PLASMA is required to cease and desist from allocating territories, restraining price competition among its members, and

restraining its members from soliciting customers. It is also required to maintain an antitrust compliance program and take other steps to further the remedial objectives of the proposed order.

The Commission anticipates that the competitive issues described in the Complaint will be resolved by accepting the proposed order, subject to final approval, contained in the Consent Agreement. The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order (“the Proposed Order”).

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way to modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by PLASMA that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint makes the following allegations.

A. The Respondent

PLASMA is a non-profit corporation consisting of licensed electricians, with approximately 25 member firms across the country. PLASMA's members specialize in commercial lighting and electrical sign installation and maintenance.

B. The Anticompetitive Conduct

PLASMA maintains a set of Member Bylaws and Standard Operating Procedures ("Bylaws") applicable to the commercial activities of its members, and requires its members to comply with its Bylaws. PLASMA maintains the following provisions in its Bylaws:

- A provision that prohibits a member from providing to a customer commercial lighting or sign services in the designated territory of another member, unless such other member first declines to perform the work;
- A price schedule governing the price of any such work performed in the designated territory of another member; and
- A provision that bars any member, for one year following termination of membership, from soliciting or competing for the customers (or prospective customers) of another member.

PLASMA also established a grievance committee to resolve alleged violations of the Bylaws, as well as a process through which PLASMA could sanction violations of the Bylaws.

II. The Allegations

The Complaint alleges that PLASMA has violated Section 5 of the Federal Trade Commission Act by designating a territory for each member, and by restricting through its Bylaws the ability of members to compete in the designated territory of another member; to compete on price; and to solicit or compete for the customers of other members.

The Complaint alleges that the purpose, effect, tendency, or capacity of the combination, agreement, acts and practices of PLASMA has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among licensed electricians.

III. The Proposed Order

The Proposed Order has the following substantive provisions: Paragraph II requires PLASMA to cease and desist from restraining its members from competing in the territories of other members; from restraining price competition among members; and from restraining members from soliciting the customers of other members upon the termination of membership in the association. The Proposed Order does not prohibit PLASMA from requesting that its members identify any geographic region(s) within which such members can quickly respond for service. However, PLASMA may not place restrictions on the number of members that may identify a particular geographic region as a “quick response” region.

Paragraph III of the Proposed Order requires PLASMA to remove from its website and organization documents any statement inconsistent with the Proposed Order. PLASMA must distribute a statement describing the Consent Agreement (“the Settlement Statement”) to PLASMA’s board of directors, officers, employees, and members. Paragraph III also requires PLASMA to provide all new members and all members who receive a membership renewal notice with a copy of the Settlement Statement.

Paragraph IV of the Proposed Order requires PLASMA to design, maintain, and operate an antitrust compliance program. PLASMA will have to appoint an Antitrust Compliance Officer for the duration of the Proposed Order. For a period of three years, PLASMA will have to provide annual training to its board of directors, offices, and employees, and conduct a presentation at its annual conference that summarizes PLASMA’s obligations under the Proposed Order and provides context-appropriate guidance on compliance with the antitrust

laws. PLASMA must also implement policies and procedures to enable persons to ask questions about, and report violations of, the Proposed Order and the antitrust laws confidentially and without fear of retaliation, and to discipline its leaders, employees, and members for failure to comply with the Proposed Order.

Paragraphs V-VII of the Proposed order impose certain standard reporting and compliance requirements on PLASMA.

The Proposed Order will expire in 20 years.

By direction of the Commission.

Janice Podoll Frankle,
Acting Secretary.

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